

PRE-APPEAL BRIEF REQUEST FOR REVIEWDocket Number
24207-10081

Pursuant to 240 OG 45 and the *Legal Framework For EFS-Web*, I hereby certify that this follow-on correspondence is being officially submitted through the USPTO EFS-Web system from the Pacific Time Zone of the United States on the local date shown below.

on February 12, 2009Signature /Jie Zhang/Typed or printed
nameJie Zhang

Application Number

10/815,074

Filed

March 31, 2004

First Named Inventor

Stephen R Lawrence

Art Unit

2167

Examiner

Robert M. Timblin

This request is being filed with a notice of appeal.

I am the

☐

applicant/inventor.

/Jie Zhang/

Signature

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.

Jie Zhang

Typed or printed name

☒

attorney or agent of record.

Registration number 60,242(650) 335-7297

Telephone number

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

February 12, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒*Total of 1 of 1 form is submitted.

ATTACHMENT TO THE PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pre-appeal review is requested because the rejections in the November 18, 2008 final Office Action are clearly improper and without any factual or legal basis. Applicants respectfully request that the Panel indicate claims 1-28 recite allowable subject matter.

Status of the Claims: Claims 1-6, 8-15, 18-20, and 22-28 are rejected under 35 USC § 102(e) as allegedly being anticipated by U.S. Pat. Appl. Pub. No. 2003/0135490 to Barrett et al. (“Barrett”). Claims 16, 17, and 21 are rejected under 35 USC § 103(a) as allegedly being unpatentable over Barrett in view of U.S. Pat. No. 6295529 to Corston-Oliver et al. (“Corston-Oliver”). Claim 7 is rejected under 35 USC § 103(a) as allegedly being unpatentable over Barrett in view of U.S. Pat. No. 5940821 to Wical (“Wical”).

Rejection of claims 1-28: The claimed invention relates to ranking information. The claimed invention merges query results of a plurality of search queries and presents the merged query result in a first ranking sequence. Upon identifying a user input indicating an interest in a first piece of information, the claimed invention identifies a search query associated with a search result including the first piece of information and adjusts a query factor for the search query. The claimed invention determines a score for a second piece of information included in the search result of the identified search query based on the adjusted query factor, and presents the merged query result in a second ranking sequence determined based on the score. This technique is useful, for example, in reranking query results based on user responses.

Independent claim 1 recites the following: (1) “merging the plurality of query results into a merged query result, the merged query result being associated with the plurality of search queries”, (2) “presenting the merged query result to a user according to the first ranking sequence”, and (3) “identifying a search query from the plurality of search queries associated

with the merged query result, the identified search query being associated with a query result including the first piece of information, the query result from among the plurality of query results”. The other independent claims recite similar features.

Barrett does not disclose the above-cited claim limitations. Barrett discloses a method for determining an enhanced popularity score (EPS) for a given piece of information and a given query. The EPS is determined based on user selection information about a search result of the given query, and is used to determine a score for the given piece of information. Thus, different from the claimed invention, Barrett teaches displaying a query result of only a *single* query to a user for selection, and using the user’s selection of the query result of the *single* query to determine the EPS.

The Examiner cited Fig. 2 of Barrett for teaching limitation (1) and asserted that Fig. 2 illustrates the merging of information A-C, and that Q1-Q4 in Fig. 2 correspond to the claimed plurality of search queries. Fig. 2 and the related description teach a database table of EPS indexed by associated information (Information A-D) and queries (Queries 1-4). Indexing an EPS table by associated information and queries does not involve merging several query results or generating a merged query result. Information A-D are merely information the EPS table indexed against, and are not information in a merged query result. Therefore, Fig. 2 does not disclose limitation (1).

The Examiner cited Fig. 2 and para. [0010] of Barrett for teaching limitation (2), presenting the merged query result, and noted that Barrett teaches results from a query family. Fig. 2 merely discloses an indexed EPS table. Para. [0010] discloses displaying a search result of a single search query, not a merged query result that is generated based on a plurality of query results of a plurality of search queries. Unlike what is noted by the Examiner, Barrett also does

not teach a merged query result for a query family. Para. [0037] of Barrett discloses that when the distribution of hits does not reliably follow ranking, expected hits used to calculate a modified score can be computed by query family. Computation of expected hits by query family is not related to generating or presenting a merged query result. Therefore, Fig. 2 and para. [0010] does not disclose limitation (2).

The Examiner cited step 2 of Figs. 1 and 2 of Barrett for teaching limitation (3), identifying a search query, and asserted that Information A-C are merged from a query family. Nowhere does Barrett suggest that Information A-C are merged from a query family. As argued above, all that Fig. 2 shows is an indexed EPS table. Step 2 of Fig. 1 merely discloses entering a user's query. Therefore, Figs. 1 and 2 do not disclose limitation (3).

The Examiner raised additional arguments in the section titled Response to Argument in the November 18 Office Action and in the Advisory Action dated January 16, 2009. As argued below, these arguments are also improper and without basis.

For limitation (1), the Examiner argued that Barrett discloses the use of a query family in para. [0037], and Fig. 2 shows a plurality of queries (Q1-Q4) with respective search results (Information A-D). The Examiner further asserted that because Barrett teaches using a query family to retrieve results, it can be interpreted that each query in the family returns results. As Applicants argued above, para. [0037] merely discloses computing expected hits by query family, and Fig. 2 merely shows an indexed EPS table. The fact that the EPS table is indexed by Q1-Q4 and Information A-D is unrelated to a merged query result that is generated based on a plurality of query results of a plurality of search queries. In addition, even if Barrett teaches retrieving search results for queries in a query family in para. [0037], a point Applicants do not concede, Barrett still does not disclose merging these query results into a merged query result.

The Examiner also asserted that because each query Q1-Q4 produces a result (e.g., Information A), and multiple queries (Q1-Q4) are associated with multiple results (Information A-D), Barrett discloses the merging of query results. Applicants reemphasize that Fig. 2 and related descriptions merely disclose an EPS table indexed against multiple information and multiple queries. By inferring a merged query result from an indexed EPS table, the Examiner improperly mischaracterized the Barrett reference.

The Examiner asserted that para. [0047] of Barrett discloses a merged result of queries “Tylenol” and “acetaminophen”, and a merged result of queries “California wine” and “red wine”. Para. [0047] is about sharing popularity scores among related queries, and does not teach anything about merging multiple query results.

The Examiner asserted that because the process disclosed in Barrett can be repeated to enhance rankings of future query results, one of skill in the art would understand future results from future users would yield results in a merged query result that are ranked according to a popularity score. Applicants submit that this argument is based on speculation and that Barrett has no disclosure of merging query results, and ranking or presenting a merged result.

For limitation (3), the Examiner asserted that because each query Q1-Q4 has a different EPS, Barrett teaches identifying a search query from a plurality of queries. EPS is merely a score Barrett uses to rank information in search results of a single query. Barrett is silent as to using EPS to identify a corresponding query. Indeed, the EPS table is indexed by query. Therefore, Barrett uses a query to locate a corresponding EPS and not the other way around.

With regard to the references cited in the 103 rejection, both Corston-Oliver and Wical were cited for disclosure of limitations recited in dependent claims and do not disclose the above-cited limitations. Likewise, the combination of Barrett, Corston-Oliver, and Wical also

fails to disclose or suggest the above-cited limitations.

Dependent claims 13 and 14 recite limitations not disclosed in Barrett. Specifically, dependent claim 13 recites “increasing a refresh rate of a display of the merged query result to the user responsive to receiving input signals at an increasing frequency”, and dependent claim 14 recites “varying a refresh rate of a display of the merged query result to the user based at least in part on the duration between receiving the first input signal and the second input signal”.

The Examiner cited Figs. 1 and 2, para. [0004], [0016-0019], [0039], and [0053] of Barrett for teaching the additional limitations of claims 13 and 14. These sections disclose increasing relevancy responses by utilizing previous user activities, an adaptive inflation approach to smooth the impact of unusual spikes in usage, considerations in providing timely relevant rankings, and periodic non-random user behaviors detection, respectively. None of the cited sections is relevant to increasing/varying a display refresh rate of a merged query result.

In the Response to Argument section, the Examiner asserted that Barrett uses user selection to gauge interest, and effectively refreshes the results to display the affected result to a lower ranking, and thus increases a display rate. In the Advisory Action, the Examiner asserted that para. [0039] teaches that a user’s behavior updates results and causes a rapid climb in ranking. Even if a user selection causes the ranking of a query result to change, Barrett does not teach redisplaying the query result to reflect such ranking changes. In addition, a rapid change in a result ranking is not caused by an increase in a display refresh rate, but by a performance factor, as indicated in para. [0039], which is defined in para. [0023] and is unrelated to display refresh rate. Therefore, Barrett fails to disclose the above-cited claim limitations of claims 13 and 14.

Thus, the pending rejections are defective and their withdrawal is requested.